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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,408	01/26/2004	Troy S. Tyler	2439.0010001	4531

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EXAMINER

LE, LINH GIANG

ART UNIT PAPER NUMBER

3626

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/763,408	<b>Applicant(s)</b> TYLER ET AL.	
	<b>Examiner</b> Linh-Giang Le	<b>Art Unit</b> 3626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>04192004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Notice to Applicant***

1. The communication is in response to the application filed 26 January 2004.  
Claims 1-18 are pending. Acknowledgement is made of the claim of benefit to U.S. Provisional Application No. 60/442,126 filed on 24 January 2003.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 4-8, 11-15, and 18 are rejected under 35 U.S.C. 102(e) as being unpatentable by Fey (US 2002/0052761).
4. As per claim 1, Fey teaches an anonymous testing method (Fey; Abstract) comprising:

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Providing a patient with an alias ID (Fey; Pg. 4, Paragraph 31) and a Password (Fey; Pg. 8, Paragraph 82);

Obtaining a test sample from the patient identified only by the Alias ID (Fey; Pg. 3, Paragraph 22);

Testing the sample to obtain a test result (Fey; Pg. 3, Paragraph 22);

Providing the test results to the patient using the Alias ID and Password (Fey; Pg. 3, Paragraph 22 and Pg. 8, Paragraph 82);

5. As per claim 4, Fey teaches the method wherein the test sample is a DNA sample (Fey; Pg. 1, Paragraph 2).

6. As per claim 5, Fey teaches the method wherein the test is a DNA test (Fey; Pg. 1, Paragraph 2).

7. As per claim 6, Fey teaches the method wherein the patient is provided the test results at a website (Fey; Pg. 8, Paragraph 82).

8. As per claim 7, Fey teaches the method further comprising providing the patient with recommendations based on the test results (Fey; Pg. 3, Paragraph 22).

9. Claims 8 and 11-14 repeat the limitations of claims 1 and 4-7 and the reasons for rejection are incorporated herein.

10. Claim 15 repeats the limitations of claim 1 and the reasons for rejection are incorporated herein. Additionally, Examiner interprets "Genetic Sample Collected from the Consumer" in Figure 4 to include instructions on obtaining a test sample.

11. Claim 18 repeats the limitations of claim 4 and the reasons for rejection are incorporated herein.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 2-3, 9-10, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fey (US 2002/0052761).

14. As per claim 2, Fey fails to expressly teach the method wherein the Alias ID comprises six or more characters. However, this is well known in the art as evidenced by knowledge generally available to one having ordinary skill in the art. In particular, Fey teaches assigning a unique client identifier (Fey; Pg. 3, Paragraph 22).

The Examiner takes Official Notice that the alias ID comprises six or more characters, as it is well-known that it would take this amount of characters to come up with a unique client identifier. Therefore, it would have been an obvious modification of the system taught by Fey to include an alias ID with six or more characters in order to come up with a unique client identifier.

15. As per claim 3, Fey fails to expressly teach the method wherein the Password comprises four or more characters. However, this is well known in the art as evidenced by knowledge generally available to one having ordinary skill in the art. In particular, Fey teaches assigning the client a password to allow for secure access to the records (Fey; Pg. 8, Paragraph 82).

The Examiner takes Official Notice that the password comprises four or more characters as it is well-known that it would take this amount of characters to come up with a password to ensure access to the records is secure. Therefore, it would have been an obvious modification of the system taught by Fey to include a password with four or more characters in order to ensure access to the records is secure.

16. Claims 9-10 and 16-17 repeat the limitations of claims 2-3 and the reasons for rejection are incorporated herein.

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***Conclusion***

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linh-Giang Michelle Le whose telephone number is 571-272-8207. The examiner can normally be reached on 8 AM - 5PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
LLe

  
C. LUKE GILLIGAN  
PATENT EXAMINER